



## Defense Threat Reduction Agency

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### EXCEPTION TO FAIR OPPORTUNITY JUSTIFICATION

**1. Nature and/or description of the action:** The Defense Threat Reduction Agency (DTRA) contracting activity proposes to procure, without requesting proposals from all four Cooperative Threat Reduction (CTR) Integrating Contractors II (CTRIC II), an effort entitled "Empty Motor Case (EMC) Elimination Facility (EEF) Installation and Commissioning." The Government will solicit only URS Federal Services International, Inc., as the contractor to provide the required technical effort.

**2. Description of the supplies/services required:** DTRA requires a contractor to continue and complete integration of EEF procurement and installation requirements. Once installation of the EEF is complete, an integrating contractor must establish and prove the initial and full operating capabilities in accordance with the design specifications. This includes individual sub-system and integrated EEF system testing, initial start-up, feed testing, emissions testing, certification and validation, process and training documentation development, and eventual operational acceptance of the incinerator, flashburn facility and size reduction facility prior to turnover to Ukraine for operations. The work will also include completion of procuring equipment for the size reduction and flash burn facilities and supervise the equipment installation and operational verification. The contractor will be responsible to review and modify as appropriate the Startup, Testing, and Commissioning Plan [CDRL A031 from DTRA01-01-D-0012 Task Order 0015] for planning the conduct of facility startup, process testing, and facility prove-out based upon the functionality and design. The contractor will also coordinate and work with Pavlograd Chemical Plant (PKhZ), general contractor (SANA), and the incinerator manufacturer (Eisenmann) to accomplish these tasks and provide a Post Acceptance Test Report provided within two weeks after completion of acceptance testing activities. The estimated value of this work is approximately \$7.4 million. The estimated Period of Performance (POP) to complete installation, achieve initial operational capability, and then full operational capability and commissioning of the EEF is not expected to exceed seven months.

**3. Exception to Fair Opportunity:**

*FAR 16.505(b)(2)(i)(B). Only one awardee is capable of providing the supplies or Services required at the level of quality required because the supplies or services ordered are unique or highly specialized.*

**4. Basis for this Action:** On January 30, 2008, DTRA awarded a competitive task order to URS under the CTR Integrating Contractor (CTRIC I) Indefinite Delivery/Indefinite Quantity (ID/IQ)



contract to provide assistance to Ukraine to support safe storage of SS-24 solid rocket motors (SRM), provide support for SRM movement, make fixed price payments to Ukraine for all empty motor cases and provide a safety report with analyses for DTRA to engage with Ukraine, if required. On May 3, 2011, DTRA modified the CTRIC I Task Order (TO0015) so that URS could provide the construction, startup, testing, and commissioning of an Empty Motor Case (EMC) Elimination Facility (EEF) to support the elimination of 163 intercontinental ballistic missile SRMs at PKhZ in Pavlograd, Ukraine. This included adding three additional phases to the original scope of the task order:

- Phase I: Design of an Empty Motor Case (EMC) Elimination Facility (EEF) to include an incinerator, flash burn facility, and size reduction facility,
- Phase II: Incinerator Acquisition and Delivery, and
- Phase III: Incinerator and EEF Construction, Testing and Commissioning.

Approval of all three phases for the EEF was authorized under an ETFO signed by the DTRA Head of the Contracting Activity (HCA) on October 8, 2010. This change was necessary due to direction from the Office of the Secretary of Defense (OSD) CTR-Policy office to provide the Government of Ukraine with the ability to eliminate EMCs via incineration in order to support a Presidential-level commitment.

URS was scheduled to complete all phases of the work, including the new work added in the modification, in late June 2012; however, delays associated with establishing shipping procedures caused by Ukrainian agencies along with the extreme weather in Ukraine this winter has pushed the completion schedule to the end of September 2012. With the CTRIC contract's POP ending in early September 2012, there is no margin for error in the schedule for URS to finish all efforts within the current contract vehicle, and any further delays due to circumstances (anticipated or otherwise) would push certain construction and equipment installation activities beyond the September 5, 2012 completion date. Of specific concerns are the remaining work (i.e. equipment installation, electrical hook up, lighting, grounding, etc.) and commissioning activities related to all the buildings involved with the EEF, including the size reduction facility (used for cutting up the EMCs) and the flash burn facility (used for eliminating residual propellant from the EMCs prior to size reduction).

Only one awardee, URS, is capable of providing the services required at the level of quality required because the services ordered are unique or highly specialized. The services required to install and commission an incinerator are common engineering services; however, URS has worked hand-in-glove with Eisenmann, the incinerator manufacturer, and was intimately involved in the design and installation process. Contracting with any other firm at this stage to assume unfinished installation efforts, test, and commission a unique system of this complexity would be ineffective. Delays in the order of months would be required in order for a new firm to gain enough familiarity with the system to resume and finish installation and oversee its commissioning. In the interest of economy and efficiency, any delays in the awarding of this contract through a process of competition will also delay the project as a whole leading to unnecessary storage and maintenance costs and inflated EMC costs.



While DTRA could use a different acquisition tool to award this work to URS, the use of the URS CTRIC II ID/IQ contract is the most efficient acquisition tool available and the tasks that will be accomplished under the new task order fall within the scope of the CTRIC II ID/IQ contract.

**5. Market Research:** When viewed as a whole, the services required in the SS-24 EEF Commissioning Project are noncommercial. While a commercial entity may be able to provide some of these services, generally these are not the type of services that are customarily used by the general public or by non-government entities. The services are for uniquely government purposes associated with threat reduction. The services are unique in that they require knowledge of doing business with Ukrainian subcontractors, Ukrainian government agencies, working within Ukrainian regulations and security requirements, and solid rocket propellant operations.

In 2009, CTR and BCOC initiated an effort to establish new CTRIC ID/IQ contracts. Full and open competition was used to solicit proposals and award the new contracts. Market research was conducted in support of the CTRIC II ID/IQ source selection. A Sources Sought Notice for CTRIC II was posted on February 10, 2009 that produced eight replies from large businesses. WMD Elimination Project requirements were included as a part of this notice. An Industry Day was held on December 2, 2010 and WMD Elimination requirements were briefed to the fifty-seven companies in attendance. One-on-one information sessions attended by 12 companies were held January 12 – 15, 2010. Ultimately, eight contractors proposed and four were awarded an IDIQ contract in April 2011.

The CTRIC II contract is the ideal vehicle to accomplish this work because CTRIC II contractors have already been determined to have the technical capabilities and the experience required to work within the competitive and legal frameworks in Ukraine. CTRIC II was specifically awarded to provide unique support to the CTR mission including the disassembly and elimination of WMD, which is the goal of the overarching SS-24 Solid Rocket Motor (SRM) Storage and Elimination Project in Ukraine.

It is doubtful that a foreign entity beyond the CTRIC II contractors would be allowed access to the plant, and to actually execute the work of handling a weapon system whose propellant constituents and characteristics are still held secret by Ukraine and Russia. Since the actual touch labor is implemented by Ukrainians, no other European (Eastern or Western) firm was considered for this role. PKhZ is a state owned plant that has specialized in the past in making solid rocket propellant and casting the propellant into motor casings. DTRA has a long history of dealing with PKhZ dating back to 1993, and for a majority of the time of the relationship, it has been contentious. Their previous track record was one of demanding that the work be given to them directly without providing proposals or justification of their hours. For these reasons, OSD-Policy told DTRA it would be advisable to use a U.S. firm as an integrating contractor. Because of previous history with PKhZ, it would be more suitable for DTRA to continue using a CTRIC II contractor on the follow-on contract. Furthermore, per the justification rationale

previously discussed and other supporting facts below, URS is the only suitable provider in this unique situation.

**6. Other Supporting Facts:** URS entered a direct contract for the design, manufacturing, installation, testing, and commissioning of the incinerator with a German company, Eisenmann, in response to a Statement of Work (SOW) developed by DTRA. Technical data packages, specifications, engineering descriptions, statements of work, and purchase descriptions are not available for multiple sources in part due to the current contracting relationship and proprietary information shared between URS and Eisenmann. It is thus difficult to make all required information available for multiple sources to compete on this effort. Additionally, the sheer amount of technical data involved in the design, manufacturing, installation, testing, and commissioning of this unique incineration system would take months for other sources to sufficiently digest in order to provide a reasonably educated proposal to complete unfinished construction and equipment installation activities, test, and commission the incinerator system and support facilities. Site access for other CTRIC contractors currently not working within Ukraine would require a separate registration process if they were to win which requires an additional 90 days before the company is fully registered. This additional delay would be period where no work was being done or oversight would be missing. This is not in the interest of the U.S. Government.

**7. Subsequent Actions:** Because only one awardee is capable of providing the services required at the level of quality required, and the services ordered are highly specialized, there are no actions DTRA can take to remove or overcome any barriers leading to the restriction of consideration of other potential offerors.



### Technical Certification

I certify that the data and information forming the basis for this justification are accurate and complete to the best of my knowledge and belief.

  
Project Manager

7/23/12  
Date

### Contracting Officer Certification and Determination


I certify that this justification is accurate and complete to the best of my knowledge and belief. Additionally, I determine that the order represents the best value consistent with Federal Acquisition Regulations.

  
Contracting Officer

7/23/2012  
Date

### General Counsel Coordination

This justification is legally sufficient.

  
Attorney

7/27/2012  
Date

### Approval

Based on the above justification, I hereby approve accomplishment of this acquisition by means of limited sources.

  
Competition Advocate

8/1/2012  
Date